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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/630,402	07/30/2003	Patrice Flaherty	1066	9003

7590 10/20/2005  
R. Keith Harrison  
2139 E. Bert Kouns  
Shreveport, LA 71105

EXAMINER

HOEKSTRA, JEFFREY GERBEN

ART UNIT	PAPER NUMBER
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3736

DATE MAILED: 10/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/630,402

Applicant(s)

FLAHERTY, PATRICE

Examiner

Jeffrey G. Hoekstra

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) 12-23 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Election/Restrictions***

1. This application contains claims directed to the following patentably distinct species of the claimed invention: Species I: embodiment disclosed in Figure 1, Species II: embodiment disclosed in Figure 2, Species III: embodiment disclosed in Figure 4, and Species IV: embodiment disclosed in Figure 6.

2. This application contains claims directed to the following patentably distinct species of the claimed invention: Species A: embodiment disclosed in Figure 6A, and Species B: embodiment disclosed in Figure 6B.

3. Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claims are generic. Election of a single distinct species from ranges I-IV and A-B is required.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims

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are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

4. During a telephone conversation with R. Keith Harrison on 10/11/2005 a provisional election was made without traverse to prosecute the invention of Species I and Species A, claims 1-11 and Figure 6A. Affirmation of this election must be made by applicant in replying to this Office action. Claims 12-23 and Figure 6B are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

#### ***Information Disclosure Statement***

5. The information disclosure statement (IDS) submitted on 07/30/2003 was filed on or after the mailing date of the nonprovisional application on 07/30/2003. The submission is in compliance with the provisions of 37 CFR 1.98. Accordingly, the information disclosure statement is being considered by the examiner.

#### ***Specification***

6. Applicant is reminded of the proper content of an abstract of the disclosure.

A patent abstract is a concise statement of the technical disclosure of the patent and should include that which is new in the art to which the invention pertains. If the

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patent is of a basic nature, the entire technical disclosure may be new in the art, and the abstract should be directed to the entire disclosure. If the patent is in the nature of an improvement in an old apparatus, process, product, or composition, the abstract should include the technical disclosure of the improvement. In certain patents, particularly those for compounds and compositions, wherein the process for making and/or the use thereof are not obvious, the abstract should set forth a process for making and/or use thereof. If the new technical disclosure involves modifications or alternatives, the abstract should mention by way of example the preferred modification or alternative.

The abstract should not refer to purported merits or speculative applications of the invention and should not compare the invention with the prior art.

Where applicable, the abstract should include the following:

- (1) if a machine or apparatus, its organization and operation;
- (2) if an article, its method of making;
- (3) if a chemical compound, its identity and use;
- (4) if a mixture, its ingredients;
- (5) if a process, the steps.

Extensive mechanical and design details of apparatus should not be given.

7. The abstract of the disclosure is objected to because of excessive length.

Correction is required. See MPEP § 608.01(b).

8. The use of the trademark SaranWrap has been noted in this application. It should be capitalized wherever it appears and be accompanied by the generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner that might adversely affect their validity as trademarks.

### ***Claim Rejections - 35 USC § 102***

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 1-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Prager (4257416). Prager discloses a multi-channel device for collecting and administering medical fluid to a patient, comprising: a main tubing segment 16 for the passage of blood and medical fluids, an indicator unit 45 and a syringe port(s) 40,44 disposed in fluid communication with said main tubing segment in a branched relationship with each other, where said indicator unit is adapted for indicating blood content, and a clamp 52 operably engaging main tubing segment for selectively blocking fluid. For claims 2 and 4, Prager shows a syringe or blood volumeter (column 4 line 5) provided in said indicator unit. For claims 3 and 6, Prager discloses an indicator unit disposed in removable fluid communication with said main tubing unit in Figure 1. For claim 5, Prager shows a volumeter chamber 45 or a graduated syringe.

***Claim Rejections - 35 USC § 103***

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 7-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Prager as applied to claims 1-6 above, and further in view of Wilkinson et al (6235010). Prager discloses the claimed invention except for the air permeable membrane and Wilkinson et al teaches an air permeable membrane 64 disposed to prevent the escape

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of the specimen within the collector while allowing air to pass (column 3 line 59). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the combination blood collection- fluid administration device as taught by Prager, with Wilkinson since it was known in the art that Wilkinson is used to provide a means for maintaining atmospheric pressure within the device such that no pressure differential exists to hinder fluid transport and in addition to prevent escape or leakage of specimen. For claims 8 and 10, Prager shows a syringe or blood volumeter (column 4 line 5) provided in said indicator unit. For claims 9 and 11, Prager discloses an indicator unit disposed in removable fluid communication with said main tubing unit in Figure 1.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Semple (2955595), Guerra (4186752), Lindsay et al (4701160), Ng (50690665), Dhas (5772608), and Lang (5795340) teach a devices capable of receiving a fluid specimen and administering fluid via a single needle insertion site with a plurality of tubes in removable fluid communication with a fluid receptacle and fluid administration device.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey G. Hoekstra whose telephone number is (571)272-7232. The examiner can normally be reached on Monday through Friday, 8:00 a.m. to 5:00 p.m. EST.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Max F. Hindenburg can be reached on (571)272-4726. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JGH



MAX F. HINDENBURG  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700